

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

**IN THE MATTER OF CHARGES FILED AGAINST) 07-
DETENTION AIDE BRIAN PEMBERTON,) CASE #06-2618
EMPLOYEE #37881 DEPARTMENT OF POLICE,)
CITY OF CHICAGO,) CR #s 301444 and
) 303674
RESPONDENT.)**

FINDINGS AND DECISION

On January 5, 2007, the Superintendent of Police filed charges with the Police Board of the City of Chicago, seeking the termination of Detention Aide Brian Pemberton, Employee No. 37881 hereinafter sometimes referred to as "Respondent" for violation of the following rules:

RULE 2: "Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department."

RULE 3: "Any failure to promote the Department's efforts to implement its policy or accomplish its goals."

RULE 6: "Disobedience of an order or directive, whether written or oral."

RULE 8: "Disrespect to or maltreatment of any person, while on or off duty."

RULE 9: "Engaging in any unjustified verbal or physical altercation with any person, while on or off duty."

The Police Board of the City of Chicago caused a hearing on these charges against Detention Aide Brian Pemberton, Employee #37881, to be heard by **Jacqueline A. Walker**, Hearing Officer of the Police Board of the City of Chicago, on May 10, 2007, May 15, 2007, May 30, 2007 and June 19, 2007. Following the Hearing, the

members of the Police Board read and reviewed the certified transcription of the proceedings of the hearing and viewed the videotapes of the proceedings. **Jacqueline A. Walker**, Hearing Officer made an oral report and conferred with the Police Board before it rendered a decision.

As a result of the foregoing, the Police Board of the City of Chicago finds and determines that:

- (1) The Respondent was, at all times mentioned herein, a Police Officer employed by the Department of Police of the City of Chicago;
- (2) The charges were filed, in writing, and a Notice, stating the time, date and place, when and where a hearing on the charges was to be held, together with a copy of the original charges were served upon the Respondent more than five (5) days prior to the hearing on the charges;
- (3) Throughout the hearing, the Respondent appeared in person and was represented by legal counsel;
- (4) Respondent, Detention Aide Brian Pemberton, Employee No. 37881, as charged herein, is **not guilty** of violating, to-wit:

Rule 2: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.

The Superintendent did not prove by a preponderance of evidence that on or about October 20, 2004, at approximately 1900 hours, at the 5th District Police Station Lockup at 727 East 111th Street, Chicago, Illinois, Detention Aide Pemberton pushed juvenile arrestee Dewone McClendon's head down to a table, causing McClendon to strike his chin and caused a laceration to

McClendon's chin.

(5) Respondent, Detention Aide Brian Pemberton, Employee No. 37881, as charged herein, is **guilty** of violating, to-wit:

Rule 2: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.

(A) On or about February 11, 2005, between approximately 1600 and 1640 hours, at the 5th District Police Station Lockup at 727 East 111th Street, Chicago, Illinois, Detention Aide Brian Pemberton pushed juvenile arrestee Gabriel Meraz's head to a wall, causing him to strike the wall and caused an injury to Meraz's face.

(B) On or about February 11, 2005, between approximately 1600 and 1640 hours, at the 5th District Police Station Lockup at 727 East 111th Street, Chicago, Illinois, Detention Aide Brian Pemberton choked juvenile arrestee Gabriel Meraz, causing injuries to Meraz's neck.

(6) Respondent, **DETENTION AIDE BRIAN PEMBERTON, EMPLOYEE #37881**, as charged herein, is **not guilty** of violating, to-wit:

RULE 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.

The Superintendent did not prove by a preponderance of the evidence that on or about October 20, 2004, at approximately 1900 hours, at the 5th District Police Station Lockup at 727 East 111th

Street, Chicago, Illinois, Detention Aide Brian Pemberton failed to ensure the safety and/or security of Dewone McClendon, a juvenile arrestee, who was injured while in Detention Aide Brian Pemberton's custody and/or control.

(7) Respondent, Detention Aide Brian Pemberton, Employee #37881, as charged herein, is **guilty** of violating, to-wit:

RULE 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.

On or about February 11, 2005, between approximately 1600 and 1640 hours, at the 5th District Police Station Lockup at 727 East 111th Street, Chicago, Illinois, Detention Aide Brian Pemberton failed to ensure the safety and/or security of Gabriel Meraz, a juvenile arrestee, who was injured while in Detention Aide Pemberton's custody and/or control.

(8) Respondent, Detention Aide Brian Pemberton, Employee No. 37881, as charged herein, is **not guilty** of violating, to-wit:

RULE 6: Disobedience of an order or directive, whether written or oral.

The Superintendent did not prove by a preponderance of the evidence that on or about October 20, 2004, at approximately 1900 hours, at the 5th District Police Station Lockup at 727 East 111th Street, Chicago, Illinois, Detention Aide Brian Pemberton failed to ensure the safety and/or security of Dewone McClendon, a juvenile arrestee, who was injured while in his custody and/or control, contrary to General Order 02-03-01, Section II. A.

(9) Respondent, Detention Aide Brian Pemberton, Employee No. 37881, as charged herein, is **guilty** of violating, to-wit:

RULE 6: Disobedience of an order or directive, whether written or oral.

On or about February 11, 2005, at approximately 1600 and 1640 hours, at the 5th District Police Station Lockup at 727 East 111th Street, Chicago, Illinois, Detention Aide Pemberton failed to ensure the safety and/or security of Gabriel Meraz, a juvenile arrestee, who was injured while in Detention Aide Pemberton's custody and/or control, contrary to General Order 02-03-01, Section II.A.

(10) Respondent, Detention Aide Brian Pemberton, Employee No. 37881, as charged herein, is **not guilty** of violating, to-wit:

RULE 8: Disrespect to or maltreatment of any person, while on or off duty.

The Superintendent did not prove by a preponderance of the evidence that on or about October 20, 2004, at approximately 1900 hours, at the 5th District Police Station Lockup at 727 East 111th Street, Chicago, Illinois, Detention Aide Pemberton disrespected and/or maltreated juvenile arrestee Dewone McClendon when Pemberton pushed McClendon's head down to a table, causing McClendon's chin to strike the table.

(11) Respondent, Detention Aide Brian Pemberton, Employee No. 37881, as charged herein, is **guilty** of violating, to-wit:

RULE 8: Disrespect to or maltreatment of any person, while on or off duty.

(A) On or about February 11, 2005, between approximately 1600 and

1640 hours, while on duty at the 5the District Police Station

Lockup at 727 East111th Street, Chicago, Illinois, Detention Aide

Brian Pemberton disrespected and/or maltreated juvenile arrestee

Gabriel Meraz when Pemberton pushed Meraz's head to a wall,

causing Meraz's head to strike the wall, causing an injury to

Meraz's face.

(B) On or about February 11, 2005, between approximately 1600 and

1640 hours, while on duty at the 5the District Police Station

Lockup at 727 East111th Street, Chicago, Illinois, Detention Aide

Brian Pemberton disrespected and/or maltreated juvenile arrestee

Gabriel Meraz when Pemberton choked Meraz, causing injuries to

Meraz's neck.

(12) Respondent, Detention Aide Brian Pemberton, Employee No. 37881, as charged herein, is **not guilty** of violating, to-wit:

RULE 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

The Superintendent did not prove by a preponderance of the evidence that on or about October 20, 2004, at approximately 1900 hours, at the 5th District Police Station Lockup at 727 East 111th Street, Chicago, Illinois, Detention Aide Pemberton pushed juvenile arrestee Dewone McClendon's head down to a table, causing McClendon's chin to strike the table and cause a laceration, thereby engaging in an unjustified physical altercation.

(13) Respondent, Detention Aide Brian Pemberton, Employee No. 37881, as charged herein, is **guilty** of violating, to-wit:

RULE 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

(A) On or about February 11, 2005, between approximately 1600 and 1640 hours, while on duty at the 5th District Police Station Lockup at 727 East 111th Street, Chicago, Illinois, Detention Aide Brian Pemberton pushed juvenile arrestee Gabriel Meraz's head to a wall, causing Meraz's head to strike the wall, causing an injury to Meraz's face.

(B) On or about February 11, 2005, between approximately 1600 and 1640 hours, while on duty at the 5th District Police Station Lockup at 727 East 111th Street, Chicago, Illinois, Detention Aide Brian Pemberton choked juvenile arrestee Gabriel Meraz's, causing injuries to Meraz's neck.

BY REASON of the findings set forth herein, cause exists for the discharge of Respondent, Detention Aide Brian Pemberton, Employee No. 37881, from the Department of Police and from the services of the City of Chicago.



J. A. Walker
JACQUELINE A. WALKER
Hearing Officer

FINDINGS & DECISION, CONT'D

DETENTION AIDE BRIAN PEMBERTON, EMPLOYEE No. 37881

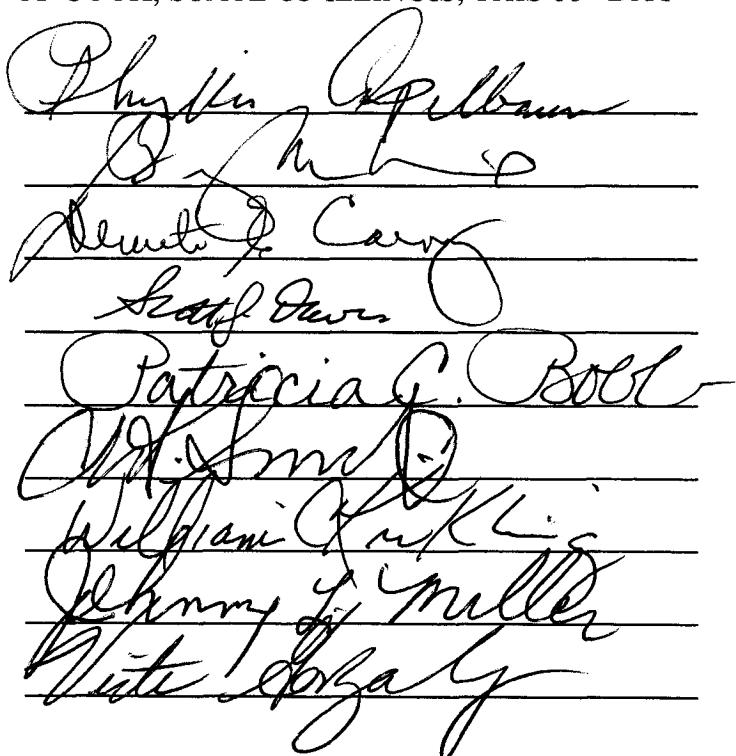
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DECISION

The Police Board of the City of Chicago, having read and reviewed the certified transcription of the hearing, having viewed the video-recording of the hearing, having received the oral report of the Hearing Officer, JACQUELINE A. WALKER, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts all findings herein; and, in reaching its decision as to the penalty imposed, the Board has taken into account not only the facts of this case but also the Respondent's complimentary and disciplinary histories, copies of which are attached hereto as Exhibit A; and

IT IS HEREBY ORDERED that the Respondent, Detention Aide **BRIAN PEMBERTON**, Employee No. 37881, as a result of having been found **guilty** of charges in Police Board Case No. 07 PB 2618, be and hereby is **discharged** from his position as a Detention Aide, and from the services of the City of Chicago.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 16th DAY OF AUGUST, 2007.



Handwritten signatures of the Police Board members, each followed by a horizontal line:

- Phyllis A. Gilham
- B. M. S.
- Deborah J. Clegg
- Scott Davis
- Patricia G. Bodd
- John J. Donohue
- William F. Kilkis
- Danny J. Miller
- Nita Dobaly

Attested by:



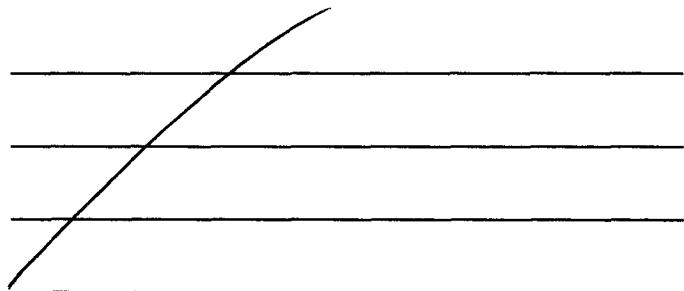
Handwritten signature of the Executive Director.

Executive Director
Police Board

**FINDINGS & DECISION, CONT'D
DETENTION AIDE BRIAN PEMBERTON, EMPLOYEE No. 37881
PAGE 9**

DISSENT

The following members of the Police Board hereby dissent from the decision of the majority of the Board.



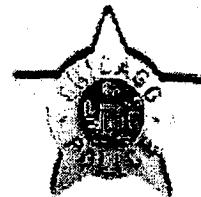
RECEIVED A COPY OF
THE FOREGOING COMMUNICATION

THIS _____ DAY OF _____, 2007.

Dana J. Stark
SUPERINTENDENT OF POLICE

Chicago Police Department

Personnel Division



PAGE 10
Information Services Division
Data Warehouse
Produced by: PC0Q216

Complimentary Hist

Name	Title	Star	Unit	Detail Unit	Empl Number
PEMBERTON, BRIAN P	9122		005		37881

Achievements

Total No.

NOTE: THIS REPORT IS FOR OFFICIAL LAW ENFORCEMENT / AUTHORIZED USE ONLY.
THE INFORMATION IS CURRENT AS OF THE DATE AND TIME OF THE REPORT.
THIS REPORT IS NOT FOR PUBLIC DISSEMINATION.

CR# 301444

INTERNAL AFFAIRS DIVISION
RECORDS SECTION

14 DEC 2005

TO: COMMANDING OFFICER UNIT 113
FROM: RECORDS SECTION
INTERNAL AFFAIRS DIVISION
SUBJECT: PREVIOUS SUSTAINED DISCIPLINARY HISTORY OF:

PEMBERTON	BRIAN	CIV	005
NAME (LAST, FIRST M.I.)	STAR	UNIT	
M	W		
SEX	RACE	S.S.N.	

REFERENCE: COMPLAINT REGISTER NUMBER 301444

THE PREVIOUS SUSTAINED DISCIPLINARY HISTORY OF THE SUBJECT ACCUSED HAS BEEN REQUESTED IN YOUR NAME BY:

SUPV.	SMITH	113		
RANK	NAME	STAR	S.S.N.	UNIT

RELATIVE TO A SUSTAINED FINDING IN THE INVESTIGATION OF THE ABOVE REFERENCED COMPLAINT REGISTER NUMBER.

THE RECORDS SECTION, INTERNAL AFFAIRS DIVISION, DISCLOSES THE FOLLOWING DISCIPLINARY ACTION ADMINISTERED TO THE SUBJECT ACCUSED FOR THE PAST FIVE (5) YEARS.

VERIFIED/PREPARED BY:

DEANNA C. MAGSBY

SEE ATTACHED

FOR: COMMANDING OFFICER
RECORDS SECTION
INTERNAL AFFAIRS DIVISION

Ex. A, 2 of 3

CHICAGO POLICE DEPARTMENT
Sustained Complaints History Report

14-DEC-2005 01:38:04 PM

<u>Social Sec. #</u>	<u>Name</u>	<u>Star #.</u>	<u>Emp. #</u>	<u>Rank</u>	<u>Description</u>	<u>Unit</u>
	PEMBERTON BRIAN P.		37881	9122	DETENTION AIDE	005
<u>Sex</u>	<u>Race</u>	<u>Birth Date</u>	<u>Appointed Date</u>	<u>No. Of CR's</u>	<u>No. Of SPAR's</u>	
M	WHITE		16-DEC-1997	2	0	

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<u>Case #.</u>	<u>Incident Date</u>	<u>Suspension Dates</u>	<u>Disciplinary Action Taken</u>	<u>Final Category</u>	<u>Less Serious Transgression</u>
C 268581	18-JAN-2001	16-AUG-2003 14-SEP-2003	30 DAY SUSPENSION Police Board #	05K-DOMESTIC ALTERCATION/INCIDENT - OFF DUTY	

Comments

<u>Case #.</u>	<u>Incident Date</u>	<u>Suspension Dates</u>	<u>Disciplinary Action Taken</u>	<u>Final Category</u>	<u>Less Serious Transgression</u>
C 278440	17-FEB-2002		REPRIMAND Police Board #	04E-PRISONER'S PROPERTY - INVENTORY/RECEIPT	

Civil Suit #Comments

Ex. A, 3 of 3